

EXHIBIT EE

CONFIDENTIAL ATTORNEYS' EYES ONLY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PATRICK CALHOUN, et al.,)
CHASOM BROWN, et al., on)
behalf of themselves and)
all others similarly)
situated,)
Plaintiffs,)
vs.) Case Nos.
GOOGLE LLC,) 4:20-cv-5146- and
Defendants.) 5:20-cv-05146-
YGR-SVK

*** CONFIDENTIAL ATTORNEYS' EYES ONLY ***

REMOTE VIDEO DEPOSITION OF
SABINE BORSAY - VOLUME II

DATE TAKEN: JUNE 30, 2022
REPORTED BY: RENEE HARRIS, CSR 14168, CCR, RPR
JOB NO. 5268903
PAGES: 173 - 350

Page 173

1 You can answer.

2 THE WITNESS: So I am aware that users
3 have misconceptions with what private
4 browsing modes offered to them.

5 For example, I am aware that some people 01:21:56
6 assume and desire, I guess, to be able to
7 sign in to a website like LinkedIn and be
8 invisible so that LinkedIn wouldn't see that
9 they signed in.

10 So that's one of the misconceptions that 01:22:14
11 I'm aware of.

12 (Exhibit 2 was received and marked
13 for identification on this date and is
14 attached hereto.)

15 BY MR. LEE: 01:22:20

16 Q. Okay. So take a look at Exhibit 2.
17 Exhibit 2 is a document produced by Google with
18 production numbers GOOG-CABR-05468324. That's the
19 beginning Bates.

20 Mrs. Borsay, do you have the document up 01:22:38
21 on your screen, just so I know?

22 A. Yes.

23 Q. Okay. Do you see on the first page,
24 right at the top, that your name is listed right
25 there under "Perceptions of Google Chrome 01:22:51

Page 197

1 Incognito"?

2 A. No.

3 Q. All right. Let's take it from the top.

4 Let me try it again.

5 Do you see, right at the top, the title 01:23:02
6 of the document is "Perceptions of Google Chrome
7 Incognito"?

8 A. Yeah, under "userexperience."

9 Q. Yeah. Okay. And the document is dated
10 January 2015; right? 01:23:18

11 A. Mm-hmm.

12 Q. So at the time that you received this
13 document, you were the product manager for Chrome
14 Privacy; correct?

15 A. Correct. 01:23:28

16 Q. And do you see right there under "PM,"
17 which I'm assuming means product manager, you were
18 actually listed as receiving this document; right?
19 Sabine Borsay. Do you see that?

20 A. It doesn't say it. I'm listed as the PM 01:23:37
21 contact there. It doesn't say if I received it or
22 anything else. I'm listed as the PM contact
23 there.

24 Q. Okay. Why don't we -- why don't we go to
25 the last page. 01:23:50

1 A. Sure. Yeah.

2 Q. I'll represent to you this is the
3 metadata that Google provided which tells us where
4 the document came from. Okay?

5 A. Okay. I don't see owner, though, here, 01:24:23
6 but --

7 Q. Well, it tells you who the custodians
8 are. So that tells us whose files this document
9 exists in. Okay?

10 A. I don't know what custodians are. I know 01:24:35
11 like owner of the doc is someone who created the
12 document.

13 Q. Okay. I'm not suggesting you created
14 this document. Custodian -- I'll represent to you
15 custodian -- if it's in your custodial file, that 01:24:46
16 means this document exists in your files.

17 Do you understand what that means?

18 A. I do not fully, but I think that's
19 okay --

20 Q. Okay. Do you see under "AllCustodians" 01:24:55
21 it has your name listed as one of the recipients
22 of this document?

23 A. No, it doesn't mean that I would be one
24 of the recipients of this document. I don't see
25 an e-mail at the moment -- 01:25:05

1 Q. Okay.

2 A. -- 2015.

3 Q. Right. Even though you're --

4 MS. CRAWFORD: Let's just make sure she's
5 done with her answer, James, before you -- 01:25:11

6 THE WITNESS: Yeah.

7 MS. CRAWFORD: -- jump in.

8 THE WITNESS: So all what I see -- I
9 don't know what custodian means -- is their
10 list of people, I'm listed as one of them. 01:25:20

11 BY MR. LEE:

12 Q. Sure. And that's why I'm -- if you
13 accept my representation that custodian means that
14 you have received this in your files, does that --

15 A. I don't know what that means, received in 01:25:31
16 files.

17 Q. Okay. That's -- that's fine.

18 Do you have a memory of reviewing this
19 document or receiving this document?

20 MS. CRAWFORD: Objection. Compound. 01:25:41
21 Vague.

22 THE WITNESS: We looked at the title
23 slide and then the last slide, which I -- or
24 slide, which I certainly didn't see it. So
25 I'm not sure. I would need to review it. 01:25:53

Page 200

1 BY MR. LEE:

2 Q. Okay. If you look at the -- let's go to
3 the top again under "Executive summary."

4 A. Mm-hmm.

5 Q. If you look at the second paragraph under 01:26:05
6 the "Executive summary," you'll see that this
7 report was based on an online survey that was
8 conducted.

9 Do you see that?

10 A. Let me read. 01:26:26

11 I don't know what Amazon's Mechanical
12 Turk refers to, crowdsourcing platform. I also
13 don't know what an exploratory online survey is
14 referring to.

15 One thing I can mention, the "N" 01:26:52
16 typically stands in user studies for the number of
17 users that were looked at, which is, yeah --

18 Q. Yeah.

19 A. -- 264.

20 Q. So I'm not asking you about all that. 01:27:02
21 I'm just -- if you look at the very first line in
22 that -- that sentence, I'm just saying, do you
23 understand that this report that we're looking at,
24 Exhibit 2, is based on the results of an
25 exploratory online survey? 01:27:16

Page 201

1 A. You asked -- your question before was
2 different, so I answered that I cannot answer the
3 question before because I don't know what Amazon's
4 Mechanical Turk is.

5 Q. Okay. So why don't you answer my next 01:27:25
6 question --

7 MS. CRAWFORD: Wait -- wait a second,
8 James. I don't think she was done. Perhaps
9 you can't hear her clearly, but she was still
10 answering the question you posed. 01:27:34

11 THE WITNESS: Yeah. So what was your
12 last question? Because, again, the one --
13 the previous one, I explained why I cannot
14 answer it. So --

15 BY MR. LEE: 01:27:42

16 Q. According to --

17 A. -- what was the question?

18 Q. Sure. According to this report, it was
19 based on results from an exploratory online
20 survey; right? 01:27:48

21 A. That's what it says.

22 Q. Okay. Go to the next paragraph where it
23 says, "Our results show."

24 Do you see that paragraph, Mrs. Borsay?

25 A. I do see the paragraph. I haven't read 01:27:57

1 it.

2 Q. Okay. Why don't you read it to yourself.

3 A. Okay, I read it.

4 Q. Okay. Item iii, do you see where there's

5 a Roman numeral iii there in the paragraph? 01:28:32

6 A. Yes.

7 Q. In the beginning of the paragraph, it

8 says, "Our results show." Right?

9 A. Mm-hmm.

10 Q. And the third thing they identify based 01:28:41

11 on the results is that "participants valued the

12 benefits of Incognito but have various

13 misconceptions which could put their privacy at

14 risk."

15 Did I read that correctly? 01:28:53

16 A. Yes.

17 Q. Okay. So if you received this document

18 in 2015, you would have known that participants in

19 this survey had various misconceptions about

20 Incognito Mode that could put their privacy at 01:29:07

21 risk; right?

22 MS. CRAWFORD: Objection. Assumes facts.

23 Lack of foundation.

24 THE WITNESS: So, first of all, again, I

25 have no idea if I received this user research 01:29:17

1 or not.

2 One thing I can say for sure now, looking
3 at the first page, I did not write it. I was
4 not a user researcher.

5 Yeah, that's what I can say to the first 01:29:33
6 part of your question already.

7 BY MR. LEE:

8 Q. Okay. And are you aware generally of any
9 kind of surveys that were taken as part of your --
10 strike that. 01:29:44

11 Are you aware generally of surveys that
12 were taken while you were the product manager of
13 Chrome Privacy regarding user conceptions or
14 misconceptions of Incognito Mode?

15 MS. CRAWFORD: Objection. Vague and 01:29:56
16 overbroad. Foundation.

17 You can answer.

18 THE WITNESS: I wouldn't be able to tell
19 after so many years what -- if it was exactly
20 about conceptions or misconceptions, what you 01:30:07
21 said, but I am aware that there were user
22 studies that were conducted.

23 BY MR. LEE:

24 Q. Okay. And would you have reviewed any of
25 those studies as part of your function as a 01:30:17